

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
(Western Division)

KARLA O'NELL NORAMBUENA,  
NATALIA TAPIA LEIVA, ALMENDRA  
GONZALEZ DE LA PAZ, DAVID SILVA  
MORENO, FERNANDO VILCHES  
CASTILLO, CLAUDIO RAMOS,  
ALEJANDRO PIZARRO, EDUARDO  
ANTONIO MUÑOZ VARGAS, CARILYNS  
SARAI CAMUS JORQUERA, GONZALO  
ESCOBAR ESPEJO, CATALINA NOEMI  
RIVAS MORALES, BAIRON MOREL  
GUERRA, DIEGO CRISTOBAL  
AHUMADA SOULODRE, and NESTOR  
ACEVEDO,

Plaintiffs,

vs.

WESTERN IOWA TECH COMMUNITY  
COLLEGE (WITCC); TERRY YI; ROSANA  
SALGADO BURRIGHT; JULINE ALBERT;  
TERRY MURELL; JAMES ZUERCHER;  
LILY CASTRO; PREMIER SERVICES,  
INC., d/b/a J&L Enterprises, also d/b/a J&L  
Staffing and Recruiting Inc.; NANCY  
ALBRECHT; CARLOS ESPINOZA;  
SOLEDAD ROJAS; JORGE ARCOS;  
CRISTIAN SAN MARTIN MATTA;  
TUR-PAK FOODS, INC., & ROYAL  
CANIN USA INC.;

Defendants.

Case No. 5:20-cv-04054-LTS-KEM

**ALL DEFENDANTS' JOINT  
APPLICATION FOR STAY AND  
MOTION FOR STATUS CONFERENCE**

**EXPEDITED RELIEF REQUESTED**

COME NOW all of the above-named Defendants (collectively the "Defendants"), through undersigned counsel, and submit this Joint Application for Stay and Motion for Status Conference as follows:

1. On or about March 15, 2021, each of the Defendants filed a pre-Answer Motion to Dismiss related to the claims brought by Plaintiffs in their Second Amended Complaint (hereinafter “SAC”). Defendant Western Iowa Tech Community College (hereinafter “WITCC” and individual WITCC Defendants Yi, Burright, Albert, Murell, Zuercher, and Castro also filed a Motion to Strike.

2. On or about April 29, 2021, the Plaintiffs filed Resistances to each of the respective Motions to Dismiss and a Resistance to the Motion to Strike. Pursuant to Local Rule 7(g), replies in support of the pending Motions to Dismiss are due on May 6, 2021.

3. However, at the same time of the filings of the Resistances, the Plaintiffs also filed a Motion for Leave to file a Third Amended Complaint (hereinafter “TAC”). If this Motion for Leave to file a TAC is granted, the TAC becomes the operative pleading on behalf of Plaintiffs and any briefing on motions to dismiss any prior pleadings would become moot.

4. Further complicating the situation, the Resistances attempt to defeat the Defendants’ Motions to Dismiss by referring to and relying upon for support allegations contained in the pending TAC. Because the TAC was not the operative pleading to which the Motions to Dismiss were directed, this approach by Plaintiffs is procedurally improper and the Resistances cannot be appropriately addressed via Replies by Defendants. Defendants’ position is that this will require that the Defendants reform and resubmit their respective Motions to Dismiss to respond to the newly-filed TAC allegations.

5. While the Defendants may not resist the Motion for Leave to Amend to file the TAC, the fact that it was filed contemporaneously with the Resistances filed by Plaintiffs now impacts pleading deadlines for Defendants and requires that all pleadings related to the Motions

to Dismiss and the Motion to Strike be stayed pending a determination of the Court as to whether the Motion for Leave to Amend for the TAC will be granted.

6. Effectively, Plaintiffs have put all Defendants in a position where they must not only reply to lengthy resistances in a short time-frame, Defendants must do so while simultaneously picking through multiple versions of complaints to discern which facts and claims merit a response. Defendants now seek the Court's assistance to course correct this matter procedurally and allow for proper pleading, briefing and any subsequent rulings.

7. It is because of the unusual procedural posture brought on by the contemporaneous filing noted above that the Defendants believe a status conference with the Court will help expedite a resolution to this morass.

8. This filing is made not for the purpose of delay but to merely seek the Court's intervention to resolve unique procedural issues that could prove dispositive.

WHEREFORE, all the of the above-named Defendants respectfully request the Court stay all pleadings related to the pending Motions to Dismiss and Motion to Strike and that the Court set a status conference for as soon as practicable to address the procedural issues created by Plaintiffs' pending Third Amended Complaint and, finally, for such other and further relief as this Court deems equitable and just.

/s/ Scott M. Brennan

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 5, 2021 I electronically filed the foregoing with the Clerk of the Court using the court's electronic filing system which sent notification of such filing to all parties of record.

/s/ Scott M. Brennan